

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04cr315

UNITED STATES OF AMERICA

vs.

TERRY JACKSON BENNETT

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ORDER

THIS MATTER is before the Court upon motions of the defendant pro se for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine (Doc. No. 122) and for appointment of counsel (Doc. No. 123).

The defendant's crack cocaine and assaulting an officer offenses resulted in a sentence of 235 months' imprisonment pursuant to the career offender guideline. (Doc. No. 94: Judgment; Doc. No. 96: Presentence Report at ¶ 32). The career offender guideline sets the offense level in relation to the maximum statutory penalty, USSG §4B1.1(b), and was not affected by the 2007 amendments, USSG Supp. to Appx. C., Amend. 706 (2007). Accordingly, the defendant is not eligible for a sentence reduction. Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum).

IT IS, THEREFORE, ORDERED that the defendant's motions for a sentence reduction and appointment of counsel are **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: May 20, 2008

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

